REMARKS

Applicants thank the Examiner for taking the time to conduct an interview and for the careful consideration of the subject application. The Office Action mailed January 6, 2009 has been carefully considered. In the Office Action Claims 1-14 are rejected and Claims 22-34 remain pending. Claims 1-14 were rejected under 35 USC 112 and under 35 USC 103. Applicants have, without prejudice cancelled Claims 1-14. No new matter was added with the filing of this response and the new claims are supported, at least, by the claims as originally filed and the application at page 27.

During the Examiner's interview Applicants clarified the invention with respect to the cited art. Applicants believe these differences are embodied in the claims. Per the Examiner's interview, Applicants believe that Friedrich and Wilkes can not server as a proper 35 USC 103 rejection as Friedrich and Wilkes do not satisfy the KSR test as promulgated by the Supreme Court. Applicants respectfully request reconsideration, removal of the rejections, and that the application be placed in condition for allowance based on the arguments herein.

Rejections under 35 USC 112

The Office Action rejected Claims 1-14 are being indefinite under 35 USC 112. Applicants, have cancelled Claims 1-14 and assert this renders this 35 USC 112 rejection moot and respectfully request it be withdrawn.

Rejections under 35 USC 103

The Office Action rejected Claims 1-14 under 35 USC 103 in light of Friedrich (US Patent No. 5,276,877) in further view of Wilkes ("The HP AutoRaid Hierarchical Storage System"), herein after Wilkes. Applicants have cancelled Claims 1-14 and added new Claims 22-

34. Applicants assert that Friedrich in view of Wilkes does not provide proper grounds of a 35 USC 103 rejection of Claims 22-34. Claims 22 and 29 are independent claims, the system and method version of each other, and Claims 23-28 and 30-34 depend on Claims 22 and 29, respectfully. For the sake of brevity, Applicants argue Claims 22 and 29 together.

In *Teleflex v. KSR,* the Supreme Court stated that a proper 35 USC 103 rejection requires the following steps be performed: (1) Determining the scope and content of the prior art; (2) Ascertaining the differences between the claimed invention and the prior art; and (3) Resolving the level of ordinary skill in the pertinent art. *Teleflex Inc. v. KSR Int'l Co.* 127 S.Ct. 1727, 1741, 82 USPQ.2d 1385, 1396 (2007). This three part test has also been reemphasized and promulgated in the Federal Register. *Federal Register*, Vol. 72, No. 195.

With respect to the first prong of KSR and Friedrich, Applicants address the scope of Friedrich. Friedrich, at column 2 lines 53-56, states his method is directed to "display of a computer system's configuration along with selected system metrics." Friedrich states, column 2, lines 61-65, that he provides a "[m]ethod of evaluating the performance of a computer system described by a configuration representing physical devises, the connections of the physical devices in the computer system, and workloads which are process that use system resources provided by the physical devises." Further, at Column 3, lines 14-16, Friedrich states that his invention is "for use in modeling a computer system containing a plurality of physical devises supporting a plurality of workloads. . ." Friedrich also states his computer system "contains two busses, NI bus 103 and CI bus 106," "CPUs" and "HSC (hierarchical storage controller) 140 manages communications between disks and CI bus."

With respect to the second prong of KSR and Friedrich, Applicants respectfully assert that Friedrich does not disclose, at least, "merging the selected one or more source data storage components . . . including obtaining configuration characteristics and workload characteristics . . . wherein the workload characteristics comprise I/O operations comprising a number of read hits, read misses, least recently used writes, and write pending operations," "simulating performance of the target data storage system," or "graphically representing the utilization or performance . . . the target data storage system . . . to enable the user to visually determine whether the target data storage system meets a desired performance."

With respect to the first prong of KSR and Wilkes, Wilkes states "[c]onfiguring redundant disks arrays is a black art." Wilkes then discusses an "HP AutoRAID array" where the hardware for this used "four back-end SCSI buses to connect to its disks and one or two fast-wide SCSI buses for its front-end host connection." Wilkes also states that "[m]uch of the intelligence in an HP AutoRAID controller is devoted to managing data placement on the disks."

Turning to the second prong of KSR and Wilkes, Applicants assert that Wilkes does not disclose, at least, "merging the selected one or more source data storage components . . . including obtaining configuration characteristics and workload characteristics . . . wherein the workload characteristics comprise I/O operations comprising a number of read hits, read misses, least recently used writes, and write pending operations," "simulating performance of the target data storage system," or "graphically representing the utilization or performance . . . the target data storage system . . . to enable the user to visually determine whether the target data storage system meets a desired performance."

Addressing the third prong of KSR, Applicants further assert that one skilled in the

relevant computer arts would not bridge the gap to arrive at the current invention. Therefore,

Applicants respectfully assert that these references, in combination or in isolation, fail to satisfy

the 35 USC 103 test as promulgated by the Supreme Court in KSR. As a result, Applicants assert

that this 35 USC 103 rejection is improper and respectfully request it be withdrawn and Claims

22 and 29 be placed in condition for allowance. Claims 23-28 and 30-34 depend on independent

Claims 22 and 29. As Applicants believe that Claims 22 and 29 are now in condition for

allowance, Applicants believe that dependant Claims 23-28 and 30-34 should be allowable for at

least the same reasons. Based on these claims, Applicants respectfully request consideration,

removal of the aforementioned rejections and that the claims be placed in condition for

allowance.

Conclusion

In view of the foregoing, the Applicants believe that the application is in condition for allowance and respectfully request favorable reconsideration.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (508) 293-7450.

Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Respectfully submitted,

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